

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1921.02
 COMPLAINT INVESTIGATOR: Sandie Scudder
 DATE OF COMPLAINT: May 22, 2002
 DATE OF REPORT: June 21, 2002
 REQUEST FOR RECONSIDERATION: no
 DATE OF CLOSURE: September 4, 2002

COMPLAINT ISSUES:

Whether the Brownsburg Community School Corporation and the West Central Joint Services violated:

-511 IAC 7-27-7(a) by failing to implement the student's individualized education program (IEP) as written, specifically:

- a. failing to provide a 1:1 assistant; and
- b. failing to implement the behavior implementation plan (BIP) included in the (IEP).

FINDINGS OF FACT:

1. The student (Student) is 10 years old, is in 3rd grade, and is eligible for special education and related services as a student with autism spectrum disorder and a communication disorder.
2. The Student's IEP dated February 1, 2002, states that paraprofessional support is needed when the Student becomes "anxious or needs redirection." The case conference notes include the following statement: "[The paraprofessional] will accompany [Student] during the general education setting, lunch, specials, continue taking notes, and send [Complainant] copies of [paraprofessional's] notes in an envelope on Mondays."
3. The Complainant and the school (School) agree that the Student was without a paraprofessional on March 13, 15, April 26; for a half-day, May 20, 21; and 30 minutes on May 22, 2002, because the regular paraprofessional was absent. A special education paraprofessional reported that she checked on the Student throughout the school day on March 13 and 15, 2002, and the classroom teacher stated that the Student was doing fine.
4. The principal is responsible for locating a substitute when the paraprofessional assigned to the Student is absent. However, the "Substitute Sign In & Out" sheet indicates that there was not a substitute available on: March 13, 15, the afternoon of April 26, May 20, and 21, 2002. The substitute for May 22, 2002, arrived 30 minutes after the Student's class started and remained all day.
5. On April 26, 2002, because of inappropriate behavior in the lunchroom, the Student lost some recess time, and additional recess time was lost when the student became agitated. After scratching his face, the Student was removed from the lunchroom. The Complainant alleges since there was not a substitute for the absent paraprofessional, the Student's BIP was not implemented which could have prevented the Student's behavior from escalating. The Student's BIP discusses how to assist the Student when he becomes anxious including: personal time with an adult, taking deep breaths, and drawing how he feels. The BIP addresses the Student being removed from the situation to a quiet place. Implementation of the BIP is directed to adults in general.

CONCLUSION:

Finding of Fact #2 indicates that the February 1, 2002, IEP requires that the Student be assigned a paraprofessional to assist him in the general education setting and in the lunchroom. Findings of Fact #3 and #4 establish that the Student's assigned paraprofessional was absent several days, and a substitute paraprofessional was not available. Finding of Fact #5 reflects that no one was present in the lunchroom on April 26, 2002, with the knowledge of how to intervene and prevent the Student's behavior from escalating, or how to implement the BIP. Therefore, a violation of 511 IAC 7-27-7(a) is found for failing to provide an assistant and failing to implement the BIP.

The Department of Education, Division of Exceptional Learners requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Brownsburg Community School Corporation and the West Central Joint Services shall:

In-service the school staff, responsible for the Student throughout the school day, regarding the Student's BIP, and how it is to be implemented. The attendees will be given copies of the Student's BIP. **A copy of the in-service agenda and a list of attendees shall be submitted to the Division no later than September 9, 2002.**

Submit an assurance statement stating that qualified substitute paraprofessional will be provided for the Student when the regular paraprofessional is absent. The assurance statement shall be submitted no later than September 9, 2002.